

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CASE No: 13-cv-00092-RLV-DSC

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

CARL DAVID WRIGHT,

Defendant.

FILED
CHARLOTTE, NC

JUN 11 2015

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

SUPPLEMENTAL ORDER ASSESSING
CIVIL MONETARY PENALTY AGAINST
DEFENDANT CARL DAVID WRIGHT

On June 24, 2013, Plaintiff Commodity Futures Trading Commission ("CFTC" or "Commission") filed a Complaint for Injunctive and Other Equitable Relief and Penalties Under the Commodity Exchange Act ("Complaint") against Defendant Carl David Wright ("Wright") for Permanent Injunction, Civil Penalties, and Other Equitable Relief, for violations of the Commodity Exchange Act (the "Act"), 7 U.S.C. §§1 *et seq.* (2012) and the Commission's Regulations ("Regulations") promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2014). On October 28, 2014, the Court entered a Consent Order for Permanent Injunction and Other Equitable Relief Against Defendant David Carl Wright ("Consent Order") (ECF # 6) that reserved issues of monetary relief for further order. The Commission now moves for entry of an order assessing restitution and a civil monetary penalty against Wright.

I. FINDINGS AND CONCLUSIONS

The Findings of Fact and Conclusions of Law contained in the Consent Order are incorporated herein by reference and given preclusive effect as provided in the Consent Order

II. RESTITUTION AND CIVIL MONETARY PENALTY

IT IS HEREBY ORDERED THAT Wright shall comply fully with the following terms, conditions, and obligations relating to the payment of restitution and civil monetary penalty.

A. Restitution

1. Wright's violations of the Act and Regulations merit the award of restitution. However, this Court recognizes that in a related criminal action, entitled *United States v. Wright*, 13-cr-00186 (W.D.N.C), the court has ordered that the Defendant pay restitution in the amount of eight hundred seventeen thousand nine hundred and seventy-five dollars (\$817,975) to the defrauded participants of the Defendant in connection with the same conduct at issue in this action. (See Dkt. #19, Judgment, November 24, 2014) Accordingly, restitution is not ordered in this action.

B. Civil Monetary Penalty

2. Wright shall pay a civil monetary penalty in the amount of one million dollars (\$1,000,000) ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Supplemental Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Order pursuant to 28 U.S.C. § 1961 (2012).

3. Wright shall pay his CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables
DOT/FAA/MMAC/AMZ-341CFTC/CPSC/SEC
500 S. MacArthur Blvd. Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, Wright shall contact Nikki Gibson or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Wright shall accompany payment of the CMP Obligation with a cover letter that identifies the name and docket number of this proceeding. Wright shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. Provisions Related to Monetary Sanctions

4. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment of Wright's Restitution Obligation or CMP Obligation shall not be deemed a waiver of his obligation to make further payments pursuant to this Supplemental Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

5. Wright shall cooperate fully and expeditiously with the Commission, including the Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto. As part of such cooperation, Wright shall comply, to the full extent of his ability, promptly and truthfully with any inquiries or requests for information, including, but not limited to, requests for production of documents and authentication of documents, and shall provide assistance at any trial, proceeding, or

investigation related to the subject matter of this action, including, but not limited to, requests for testimony, depositions, and/or interviews. Should the Commission file any additional action(s) related to the subject matter of this action, Wright is directed to appear in the judicial district in which such action(s) is pending, or in a suitable judicial district agreed to by the parties, to provide deposition testimony and trial testimony should such testimony be necessary.

III. MISCELLANEOUS PROVISIONS

6. Notice: All notices required to be given by any provisions in this Supplemental Order shall be sent certified mail, return receipt requested as follows:

Notice to Commission:

Regional Counsel, Division of Enforcement
U.S. Commodity Futures Trading Commission
525 West Monroe Street, Suite 1100
Chicago, Illinois 60661

Notice to Defendant:

Carl David Wright, Register Number: 70411-056
FCI Butner Medium I
Old NC Hwy 75
Butner, NC 27509

All such notices to the Commission shall reference the name and docket number of this action.

7. Change of Address/Phone: Until such time as Wright satisfies in full his CMP Obligation as set forth in this Supplemental Order, Wright shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten (10) calendar days of the change.

8. Invalidation: If any provision of this Supplemental Order or if the application of any provision or circumstance is held invalid, then the remainder of this Supplemental Order and

the application of the provision to any other person or circumstance shall not be affected by the holding.

9. Waiver: The failure of any party to this Supplemental Order or of any participant at any time to require performance of any provision of this Supplemental Order shall in no manner affect the right of the party or participant at a later time to enforce the same or any other provision of this Supplemental Order. No waiver in one or more instances of the breach of any provision contained in this Supplemental Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Supplemental Order.

10. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of the action to ensure compliance with this Supplemental Order and for all other purposes related to this action.

11. The provisions of this Supplemental Order shall be binding upon defendant Wright, upon any person under his authority or control, and upon any person who receives actual notice of this Supplemental Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with defendant.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Supplemental Order Assessing Restitution and a Civil Monetary Penalty Against Defendant Carl David Wright*.

IT IS SO ORDERED.



U.S. District Court Judge

6/11/15